

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12604 of William Adair, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variance from the prohibition against adding to a non-conforming structure which presently exceeds the percentage of lot occupancy (Paragraph 7107.21) and from the open court requirements (Sub-section 3306.1 and Paragraph 7107.22) to permit a second floor rear addition in the R-4 District at the premises 1331 East Capitol Street, S.E., (Square 1036, Lot 118).

HEARING DATE: March 15, 1978
DECISION DATE: April 5, 1978

FINDINGS OF FACT:

1. The subject property is located on the north side of East Capitol Street between 13th and 14th Street, S.E. and is in an R-4 District.

2. The subject lot is 2,213 square feet in area and is improved with a two story single family dwelling which occupies the full width of the lot and which extends fifty five feet in depth. There is an existing non-conforming court five feet wide and extending fifteen feet along the western side of the structure, opening to the rear yard.

3. A two-story wood-frame porch, measuring 9 feet in depth and 12.65 feet in width, projecting 1.4 feet into the court yard, was formerly attached to the rear of the building. The former porch predated the enactment of the 1958 Zoning Regulations and was legal under prior regulation, thus conferring the applicant with nonconforming rights to enclose it. The porch comprised a first-floor, screened section and a smaller open, but roofed, section on the second floor.

4. In August 1977, the applicant file an application for a permit "to make repairs or alterations to an existing building", specifically to "enclose existing porch." With the application he presented plans showing a two-story brick structure, having the same first-floor dimensions and slightly larger dimensions on the second floor. The plans were approved on August 24, 1977. The applicant was issued a Repair Permit (B-254207) to "ENCLOSE EXISTING PORCH ROOF IN PLACE NO INCREASE IN SIZE AS PER PLANS".

5. Thereafter, the applicant razed the porch and removed the existing footings, pouring new footings in their place to support the greatly increased weight of the new brick structure. The applicant had erected the first story when a D.C. building inspector ordered him to cease work since he was in violation of the Zoning Regulations.

6. The applicant, as the plans submitted to the Zoning Administrator's office showed had increased the dimensions of the second floor porch by making it flush with the first floor porch, whereas the second floor porch had previously been recessed.

7. The applicant now seeks a variance from the Board allowing him to finish constructing the porch as an addition to a non-conforming structure which now exceeds the percentage of lot occupancy requirement of sixty per cent, and a variance of 2.66 feet from the open court requirements.

8. Advisory Neighborhood Commission - 6B endorsed the application on the grounds that the addition is an improvement over the previously existing second floor porch it is replacing and because the new addition extends out no further than other attached houses on that row.

9. The Capitol Hill Restoration Society, Inc, took no position on the merits of the application but commented that the applicant appeared to have acted in good faith relying in the permit that had been issued to him.

10. There was no opposition to the application.


CONCLUSIONS OF LAW:

The Board concludes that the requested variances are area variances, the granting of which requires the showing of a practical difficulty. The Board notes that with minor changes the applicant could have complied with the Zoning Regulations and that when the application for a permit was filed and approved, it was the applicant's intention to do so. The Board concludes that the applicant acted in good faith and relied upon the plans duly submitted to and approved by the D.C. permit authorities, including the Zoning Regulations Division, Department of Housing and Community Development. The Board concludes that to require the applicant to revise his plans at this point would create a practical difficulty. The Board is also aware that there was no opposition to the application. Based on the record the Board in its discretion finds that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zoning plan. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 5-0 (Charles R. Norris, William F. McIntosh, Chloethiel Woodard Smith, Walter B. Lewis and Leonard L. McCants)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

24 APR 1978

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOP-